



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Kathleen Clarke
Executive Director

Lowell P. Braxton
Division Director

1594 West North Temple, Suite 1210

PO Box 145801

Salt Lake City, Utah 84114-5801

801-538-5340

801-359-3940 (Fax)

801-538-7223 (TDD)

March 23, 2000

Reed Harris
U. S. Fish and Wildlife Service
Lincoln Plaza
145 East 1300 South, Suite 404
Salt Lake City, Utah 84115

Re: Section 7 Consultation on Proposal to add a Federal Lease, Canyon Fuel Company, LLC,
Dugout Canyon Mine, ACT/007/039-SR99D-3 outgoing file

Dear Mr. Harris:

The Division of Oil, Gas and Mining is reviewing a plan to add a federal lease to the Dugout Mine permit area. The permit for this mine was originally approved in March 1998 with no associated federal lands or leases, but later that same year, a small area of land managed by the Bureau of Land Management was added to the permit area. The current proposal is to add about 2416 acres of a federal lease to the permit area. (Township 13 S. Range 12 & 13 E.) There would be no surface disturbance other than possible subsidence.

To comply with our responsibilities under Section 7 of the Endangered Species Act, we are requesting information on federally listed, proposed and candidate species that may occur in the project area (Carbon County). In addition, after reviewing our files and discussing the situation with your personnel, we are unsure whether previous approvals obtained for this mine are adequate.

Although we have not previously received from you a list of species that may occur in the area, we have done an analysis based on a list dated January 12, 1998, for the nearby West Ridge Mine. Species on this list are:

Graham Beardtongue
Bald Eagle
Peregrine Falcon
Black-footed Ferret

Razorback Sucker
Humpback Chub
Bonytail Chub
Colorado Pikeminnow

The peregrine falcon is no longer listed, but it is still protected. Raptor surveys have failed to locate peregrine falcon scrapes in the permit area or the proposed addition although they have been found nearby. Because no scrapes will be subsided and because nearby scrapes are more than one mile away from surface disturbances, there should be no effects.

According to Ben Franklin of the Utah Natural Heritage Program, there is a historical collection of Graham beardtongue from the extreme northeastern corner of Carbon County a few hundred feet from the county line. It is an endemic that occurs almost exclusively on the Green River formation in Uintah and Duchesne counties. There is virtually no likelihood the mine would affect this species.

There have been no confirmed sightings of black-footed ferrets in Carbon County in several years, so there should be no effect on this species.


Although bald eagles are common winter residents, there are no nests or concentrated roosting sites within either the current permit area or the proposed addition.

There is a potential through water use of adversely affecting the threatened and endangered fish of the upper Colorado River basin. The mine is in the Dugout and Pace Creek drainages which are tributary to, in turn, Grassy Trail Creek, the Price River, and the Green River. The Probable Hydrologic Consequences document included in the current mining and reclamation plan indicates the mine would continue to use water at the current rate of about 46.5 acre-feet annually. Therefore, we do not believe mitigation would be required.

Because we thought we had received your concurrence on this project, we proceeded with our review and are nearly ready to issue a permit. In order to do this we need to ensure that the Section 7 requirements have been met and request your concurrence to that effect. We would appreciate a response as quickly as possible. This project will still need to receive federal mine plan approval through the Office of Surface Mining.

If you have any questions, please call me at 538-5325 or Paul Baker at 538-5261.

Sincerely,


Daron R. Haddock
Permit Supervisor



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March 17, 2000

Chris Hansen, Environmental Manager
Canyon Fuel Company, LLC
HC 35 Box 380
Helper, Utah 84526

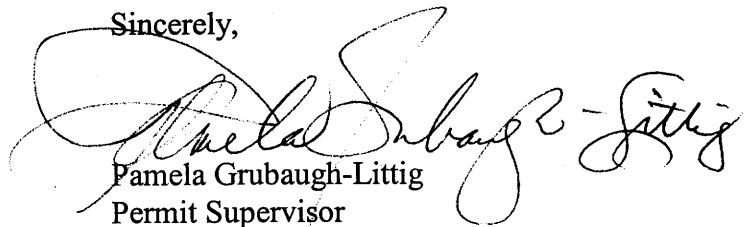
Re: Replacing Sureties (Including Exhibit A), Canyon Fuel Company, LLC, Skyline Mine, ACT/007/005, Soldier Canyon Mine, ACT/007/018, Banning Loadout, ACT/007/034, Dugout Canyon Mine, ACT/007/039, SUFCO Mine, ACT/041/002, Outgoing File

Dear Mr. Hansen:

I was recently notified by Staci Call at Arch Coal that all of the current sureties will be replaced for all of the Canyon Fuel Company, LLC mines in Utah. As part of this replacement, parts of the Reclamation Agreement must be also be revised. Please update Exhibit A (Bonded Area signed by the surety) and Exhibit D (Stipulation to Revise The Reclamation Agreement) with this surety replacement.

I have enclosed Exhibit A and Exhibit D for your use. If you have any questions, please call me.

Sincerely,



Pamela Grubaugh-Littig
Permit Supervisor

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Enclosure

cc: Mary Ann Wright

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EXHIBIT "A"
PERMIT AREA
LEGAL DESCRIPTION

Exhibit "A" - **PERMIT AREA**

Permit Number: _____

Effective Date: _____

PERMIT AREA

--ooOOoo--

In accordance with the **RECLAMATION AGREEMENT**, the **PERMITTEE** intends to conduct coal mining and reclamation activities on or within the **PERMIT AREA** as described hereunder: (The bonded area equals the permit area.)

Total acres of **PERMIT AREA**: _____

Legal Description of **PERMIT AREA**:

This is the **PERMIT AREA** is covered by the reclamation surety provided in Exhibit B.

IN WITNESS WHEREOF the **SURETY** has hereunto set its signature and seal this

_____ day of _____, 19____.

SURETY

By: _____

Title: _____

Exhibit "D" - STIPULATION TO REVISE RECLAMATION AGREEMENT

Permit Number: _____
Effective Date: _____

COAL
STIPULATION TO REVISE RECLAMATION AGREEMENT
-ooOOoo-

This **STIPULATION TO REVISE RECLAMATION AGREEMENT** entered into by and between the **PERMITTEE** and **DIVISION** incorporates the following revisions or changes to the **RECLAMATION AGREEMENT**: (Identify and Describe Revisions Below)

In accordance with this **STIPULATION TO REVISE RECLAMATION AGREEMENT**, the following Exhibits have been replaced by the **PERMITTEE** and are approved by the **DIVISION**:

- ____ Replace the **RECLAMATION AGREEMENT** in its entirety.
- ____ Replace Exhibit "A" - **PERMIT AREA**.
- ____ Replace Exhibit "B" - **BONDING AGREEMENT**.
- ____ Replace Exhibit "C" - **LIABILITY INSURANCE**.

The **BONDING** amount is revised from (\$_____) to (\$_____).

The **SURFACE DISTURBANCE** is revised from _____ acres to _____ acres.

The **EXPIRATION DATE** is revised from _____ to _____.

The **LIABILITY INSURANCE** carrier is changed from _____
to _____.

The **AMOUNT** of **INSURANCE** coverage for bodily injury and property damage
is changed from (\$_____) to (\$_____).

Exhibit "D" - STIPULATION TO REVISE RECLAMATION AGREEMENT

IN WITNESS WHEREOF the **PERMITTEE** has hereunto set its signature and seal
this _____ day of _____, 19____.

PERMITTEE

By: _____

Title: _____

ACCEPTED BY THE STATE OF UTAH:

Lowell P. Braxton, Director
Division of Oil, Gas and Mining

NOTE: An **Affidavit of Qualification** must be completed and attached to this form for each authorized agent or officer. Where one signs by virtue of Power of Attorney for a company, such Power of Attorney must be filed with this Agreement. If the **PERMITTEE** is a corporation, the Agreement shall be executed by its duly authorized officer.

**AFFIDAVIT OF QUALIFICATION
PERMITTEE
--ooOOoo--**

I, _____, being first duly sworn under oath, deposes and says that he/she is the (officer or agent) _____ of _____; and that he/she is duly authorized to execute and deliver the foregoing obligations; and that said **PERMITTEE** is authorized to execute the same and has complied in all respects with the laws of Utah in reference to commitments, undertakings and obligations herein.

(Signed) _____
Name - Position

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My Commission Expires:

_____, 19 ____.

Attest:

STATE OF _____)
COUNTY OF _____) ss:

**AFFIDAVIT OF QUALIFICATION
SURETY COMPANY**

--ooOOoo--

I, _____, being first duly sworn under oath, deposes and says that he/she is the (officer or agent) _____ of _____; and that he/she is duly authorized to execute and deliver the foregoing obligations; and that said **SURETY COMPANY** is authorized to execute the same and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertakings and obligations herein.

(Signed) _____
Surety Company Officer - Position

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My Commission Expires:

_____, 19 ____.

Attest:

STATE OF _____)
COUNTY OF _____) ss: